



FOLA’s Southwest Regional Report for May 2021 Plenary

The Covid-19 pandemic looms larger than ever. We are told that (as of mid-April 2021) there are 5.2 million new cases recorded across the globe. According to the World Health Organization that is the most in a single week since the declaration of a pandemic. At the time of this report (April 26, 2021), we are updated that there are 20 million immunized in Canada and yet we are in the throes of what is being called the “Third Wave”. The virus is quickly spreading and Canada continues to roll out the vaccines. In one week, we have seen a 24% increase in hospitalizations and a 21% increase in ICU admissions compared to the preceding week. This is according to the Chief Public Health Officer Dr. Theresa Tam. On the positive side we are advised that the mortality rate is on the decline compared to the same time of year 2020. The bottom line is that since our 2020 May & November Plenaries we have continued to experience province wide lasting and ongoing COVID-19 impacts on every area of the practice of law.

Here in Southwest Ontario, our monthly teleconference meetings continue with general reports from Association Presidents that are positive. Modernization of court systems are well under way for every Association. Zoom is the universal format. Remote court attendances are the norm. In the Ontario Court of Justice, audio attendances are the only option for Bail Hearings but Justice of the Peace Case Management Courts and Judicial Pleas/Sentencing and even some Trials are done through Zoom, with video. The Superior Court of Justice has adopted in the same direction. Judicial pre-trials at both levels are by remote attendances for all.

The Ministry of the Attorney General has used this time of crisis as an opportunity to revamp an archaic judicial system and success is being achieved. Applause to the government for tackling this monumental task.

One repeated complaint, however, is that: “the only consistency is inconsistency!”

Unfortunately, across the region we hear that there is a lack of uniformity as to procedures in the courtroom. Appreciating and respecting Judicial independence, all the same, lawyers would like to see set policies across the region let alone within the local court houses where there is uniformity of application of remote attendance expectations from the Bench. One example, of the use of remote/virtual/substitute execution of court documents (deemed signed).

The implementation of electronic filings is applauded but again there is a concern about a lack of standardization. Despite online training programs designed to create uniformity, we are told there is variation at local court houses, dependent on staff



involved in a matter, let alone differences of approach from court house to court house. The policy varies greatly, from what I am told by the Association Presidents.

Meanwhile, courthouses retrofitting to allow for social distancing has been addressed everywhere in the region. As previously reported, this includes the placement of plexiglass, improving Wi-Fi capabilities, and installing sanitizing stations.

In person trials continue for accused who do not consent to remote appearances for trial, in accordance with the Criminal Code of Canada. Sentencings where incarceration is a possibility are also done in-person.

At present, we are all currently in a full provincial lock down. On April 1, 2021, Premier Doug Ford stated that he was pulling the “emergency brake” and he placed the entire province into a four week lock down and the stay-at-home Order was to commence on April 3, 2021. This has since been extended a further two weeks and greatly modified with enhanced restrictions.

Earlier in April, 2021, the Chief Justice of the Superior Court of Justice Geoffrey B. Morawetz announced that the court will focus on only the most serious child protection matters, urgent family matters, critical criminal matters and urgent commercial or economic matters where there are employment or economic impacts. Subsequently, on April 20, 2021, virtually everything in the SCJ was cancelled starting Friday, April 23 to May 7, 2021. Association Administrative Justice memos quickly cancelled courts directing bench warrants with discretion with future Assignment Courts. This saw even virtual attendances cancelled inclusive of Judicial pretrials and the like. Trials already commenced in the SCJ, may continue at the direction of the presiding Justice.

Likewise, Lise Maisonneuve, Chief Justice of the Ontario Court of Justice followed the government announcement by restricting court cases. Trials and Preliminary Hearings are currently cancelled between April 26, 2021 and May 7, 2021. That is other than in custody trials. Remote Case Management Courts, pleas, sentencings, Judicial pretrials and bail hearings all continue.

In November, 2020, I was writing to you about the opening of the courts and now I am writing to you about the closing of the courts!

Overall, the Regional Reports from our Southwest FOLA Presidents continue to repeat my past report of “collegiality and collaboration in the restoration of our Justice systems.” We are told that President communications with the Bench are ongoing with local Bench & Bar meetings noted as being helpful. The Southwest Leads meeting sees FOLA as an active participant and a voice for the lawyer members. Ongoing consideration of what new implements should stay and what should be terminated, on a moving forward basis (post pandemic), are being discussed and your voice matters.



Talk to me. FOLA welcomes your input: terrylbrandon@acriminaldefence.ca.

Please, note my email is open 24/7 as I am always happy to hear from any member about the practice of law in our Region.

As your FOLA Representative, I wish the practicing membership to be healthy at all levels and I look forward to continuing to serve, the Southwest Region of Ontario, as your voice.

Yours faithfully in FOLA service,

Terry L. Brandon
FOLA Southwest Regional Representative & Legal Aid Committee Chair

*** Southwest Region Law Associations and Presidents**

Elgin Law Association, Catherine Papineau
Essex Law Association, Jennifer Simpson-Rouke
Huron Law Association, Sarah Wisking
Kent Law Association, Stephen Andari
Lambton Law Association, Amanda Gaw
Middlesex Law Association, Bob Ledgley
Oxford Law Association, Michellene Beauchamp
Perth Law Association, Cynthia Weeks
Huron Law Association, Jenn McMillan